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MICHELLE R. BARRETT, Bar No. 197280
KIMBERLY L. OWENS, Bar No. 233185
JUSTIN T. CURLEY, Bar No. 233287
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Attorneys for Defendants
HSBC MORTGAGE CORPORATION (USA) AND
HSBC BANK USA, N.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

v.

HSBC Mortgage Corporation (USA);
HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

Defendants.

Case No. C 07 2446 MMC [ECF]

**DECLARATION OF MICHELLE R.
BARRETT IN SUPPORT OF
DEFENDANTS' MOTION FOR RULE
11(C) SANCTIONS**

Date: June 6, 2008
Time: 9:00 a.m.
Courtroom: 7 (19th Floor)
Judge: Hon. Maxine M. Chesney

1 I, MICHELLE BARRETT, declare and state as follows:

2 1. I am an attorney licensed to practice in the State of California and I am a
3 shareholder in the law firm of Littler Mendelson, attorneys for Defendants in the above-captioned
4 matter. I have personal knowledge of the matters set forth below, and if called as a witness I could
5 testify competently to matters contained therein.

6 2. On July 13, 2007, Defendant HSBC Mortgage Corporation received
7 Plaintiffs' Requests for Production (Set One). Attached hereto as Exhibit A is a true and correct
8 copy of Plaintiffs' Request for Production (Set One).

9 3. Subsequently Plaintiffs propounded the same Requests for Production upon
10 Defendant HSBC Bank USA, N.A ("HBUS").

11 4. On April 7, 2008, in response to Plaintiffs' discovery requests, Defendants
12 produced e-mail communications between Plaintiff Wong and his attorney, Bryan Schwartz
13 ("Schwartz"), that were discovered on Defendants' e-mail system during its search for responsive
14 documents.

15 5. Included with Defendants' April 7, 2008 production of documents I sent a
16 letter to Plaintiffs' counsel, Bryan Schwartz, stating Defendants' position that Plaintiff Wong waived
17 the attorney-client privilege as to e-mail communications exchanged on the company e-mail system.
18 Attached hereto as Exhibit B is a true and correct copy of this letter.

19 6. On September 10, 2007, Defendants produced company policies applicable to
20 Plaintiffs Wong and Chaussy.

21 7. On September 11, 2007, Schwartz referred to these policies during David
22 Gates' deposition. Attached hereto as Exhibit C is a true and correct copy of an excerpt from David
23 Gates' deposition on September 11, 2007.

24 8. On January 31, 2008, Defendant HSBC Mortgage Corporation (USA)
25 propounded requests for production upon Plaintiffs Wong and Chaussy. A true and correct copy of
26 the Requests propounded upon Plaintiff Wong are attached hereto as Exhibit D.

27 9. Request for Production Nos. 2 and 11 in Exhibit D are the same requests
28 propounded upon Plaintiff Chaussy.

1 10. On February 29, 2008 Plaintiffs' counsel, Nichols Kaster & Anderson,
2 attached a letter to Plaintiffs' Responses to Defendant HSBC Mortgage Corporation (USA)'s
3 Request for Production of Documents. The letter included an index of documents produced with
4 Plaintiffs' responses. Defendants did not receive a privilege log with Plaintiffs' responses. Attached
5 hereto as Exhibit E is a true and correct copy of this letter.

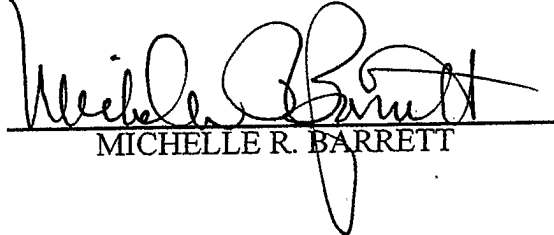
6 11. Included with Plaintiff Chaussy's responsive documents were two documents
7 which contain confidential financial information about putative class members.

8 12. Attached hereto as Exhibit F is a true and correct copy of the e-mail and
9 attachment produced by Plaintiff Chaussy entitled "Status Report By LO" (Bates No. NKA002260-
10 002269) which contains confidential information about putative class members. In order to protect
11 the privacy of putative class members, Defendants are filing a Motion For Administrative Relief to
12 file this document under seal.

13 13. Attached hereto as Exhibit G is a true and correct copy of a document
14 produced by Plaintiff Chaussy and referred to in the letter attached hereto as Exhibit D as "Weekly
15 Production by Offices" (Bates No. NKA001501). In order to protect the privacy of putative class
16 members, Defendants are filing a Motion For Administrative Relief to file this document under seal.

17 14. Attached hereto as Exhibit H is a true and correct copy of an excerpt from
18 Philip Wong's deposition on November 29, 2007.

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct. Executed this 28th day of April 2008 at San Francisco, California.

21
22 
23 MICHELLE R. BARRETT

24 Firmwide:85025574.1 023404.1043

EXHIBIT A

RECEIVED

JUL 13 2007

LITTLER MENDELSON

1 Donald H. Nichols, MN State Bar No. 78918
(admitted pro hac vice)
2 Paul J. Lukas, MN State Bar No. 22084X
(admitted pro hac vice)
3 Matthew C. Helland, MN State Bar No. 346214
(admitted pro hac vice)
4 NICHOLS KASTER & ANDERSON, PLLP
4600 IDS Center
80 S. 8th Street
5 Minneapolis, MN 55402

6 Bryan J. Schwartz, CA State Bar No. 209903
NICHOLS KASTER & ANDERSON, LLP
7 One Embarcadero Center, Ste. 720
San Francisco, CA 94111

8 Attorneys for Individual and Representative Plaintiffs

9
10 **IN THE UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

11
12 Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
13 others similarly situated, and on behalf of
the general public,

14 Plaintiffs,

15 vs.

16 HSBC Mortgage Corporation (USA);
17 HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

18 Defendants.

Case No.: 3:07-cv-2446

**PLAINTIFFS' REQUESTS FOR
PRODUCTION, SET I**

19
20
21 PLEASE TAKE NOTICE that, pursuant to Rule 34 of the Federal Rules of Civil
22 Procedure, Plaintiffs hereby requests that within thirty (30) days after service of this request,
23 Defendant shall produce and permit Plaintiffs to inspect and copy all of the following documents
24 and things at the offices of Nichols Kaster & Anderson, One Embarcadero Center, Suite 720, San
25 Francisco, CA 94111.

26
27 The Defendant shall also serve a written response within thirty (30) days after service of
28 the request, which response shall state the manner in which Defendant will cooperate with the

PLAINTIFFS' REQUEST FOR PRODUCTION, SET I

1 inspection, copying and related activities as to each category of documents and things requested.

2 **INSTRUCTIONS**

3 1. This request seeks all specified documents in the actual or constructive possession,
4 custody, and/or control of Defendant, the Defendant's attorneys and/or agents, or which are
5 believed by Defendant, Defendant's attorney(s) and/or agents to exist or previously to have
6 existed.
7

8 2. This request is expressly made continuing, requiring additional and supplemental
9 responses when additional documents and/or things come into the possession custody or control
10 of Defendant, Defendant's attorney(s) and/or agents until the instant action is finally terminated.
11 Defendant must continue to supplement its responses to these requests even after the discovery
12 period in this case closes and even if persons continue to consent to join this action after the
13 discovery period ends.
14

15 3. Should Defendant deem any documents and things within the scope of this request
16 to be privileged, Defendant is requested to list such documents or things and to identify them by
17 designation of the type of document or thing, the date thereof, the name or names of the originator
18 thereof, the name of the addressee, the number of pages or other units, to state the present
19 custodian and location of the document or thing and to state the specific grounds on which the
20 claim of privilege rests in order that Defendant may have a factual basis to determine whether,
21 and the basis upon which, to present the asserted privilege to the Court.
22

23 4. Should the Defendant object to any request, Defendant is requested to specifically
24 and in detail state the grounds and reasons for the objection, and to state in detail the part of
25 language of the rest to which Defendant objects, and state which part of the request, if any,
26 Defendant is answering.

27 5. Objection shall be made at trial to introduction of evidence requested by this
28

1 Demand for Production but not provided.

2 6. If the document or thing requested herein has been destroyed or discarded or
3 otherwise disposed of, Defendant shall set forth in the written response a description of each such
4 document or thing, including its contents, author, or addressee, date of disposal, manner of
5 disposal, reason for disposal, and person disposing of the document or thing.

6
7 7. Defendant may attach a copy of a document of the written response, but the
8 original, if it is in Defendant's, Defendant's attorneys and/or agent(s)' possession, custody, or
9 control must be available for inspection.

10 DEFINITIONS

11 1. "Statutory period" means from May 7, 2001 to present for all Plaintiffs ever
12 employed in New York, from May 7, 2003 to present for all Plaintiffs ever employed in
13 California, and from May 7, 2004 to present for all Plaintiffs employed outside of New York or
14 California.

15
16 2. "Defendant," "You," or "Your" means HSBC Mortgage Corporation (USA), its
17 subsidiaries, affiliates, officers, directors, managers, agents, and employees.

18 3. "Document," "documents," and "things" shall mean all documents and tangible
19 things, including, but not limited to, all written, printed, typed, recorded, graphic, or symbolic
20 matter of every type and description, however, and by whomever prepared, produced, reproduced,
21 disseminated, or made, in any form, including, but not limited to, all statements, writings, letters,
22 minutes, correspondence, e-mails, telegrams, bulletins, instructions, charts, literature, work
23 assignments, reports, memoranda, notations, notes of telephone or personal conversations or
24 conferences, contracts, agreements, interoffice communications, notes, notebooks, drafts,
25 microfilm, circulars, pamphlets, studies, notices, summaries, reports, books, graphs, photographs,
26 data sheets, data compilations, computer data sheets, computer data compilations from which
27
28

1 information can be obtained or can be translated through detection devices into reasonable usable
2 form, and any other document and thing.

3 4. "Excel format" means documents in "Microsoft Excel" file types, with file
4 extension ".xls," with tab-separated columns reflecting identified and identifiable data fields.

5 5. "Statement" shall have the same definition as set forth in the second paragraph of
6 Rule 26 of the Federal Rules of Civil Procedure and includes, but is not limited to, a written
7 statement or signed or otherwise adopted or approved by the person making it, and/or a
8 stenographic, mechanical, electrical and/or other recording or transcription thereof, which is
9 substantially verbatim recital of an oral statement by the person making it.

10 6. "Relating to" means having any connection with the topic of the request of having
11 some logical or casual connection between the information and the topic of the request whether
12 the document contains a direct reference to the topic of the request or simply describes or
13 identifies the topic.

14 7. "Plaintiffs" means all persons identified as Plaintiffs in the caption and all persons
15 who have filed consent forms in this matter, including persons who file consent forms to join this
16 matter after the discovery period in this case closes.

17 8. "Personnel File" means all employee records maintained by Defendant's human
18 resource department or other corporate office, and all documents relating the employee
19 maintained by his/her supervisor, co-employee, or other person.

20 **REQUESTS FOR PRODUCTION**

21 1. A list, in Excel format, of all persons employed by Defendant as Senior Retail
22 Mortgage Lending Consultants, Retail Mortgage Lending Consultants, Senior Field
23 Administrators, and/or Field Administrators at any of Defendant's locations within the applicable
24 statutory period, including for each his/her name, address, telephone number, dates of
25

1 employment as a Senior Retail Mortgage Lending Consultants, Retail Mortgage Lending
2 Consultants, Senior Field Administrators, and/or Field Administrators, location of employment,
3 employee number, and last four digits of their social security number. For this Request, the
4 relevant statutory period begins six years prior to the date of the filing of this complaint for New
5 York employees, four years for California employees, and three years elsewhere, and continues
6 until the present.

7
8 2. Plaintiffs' personnel files.

9 3. A list, in Excel format, of all persons employed by Defendant at the locations in
10 which Plaintiffs worked, including for each his/her name, address, telephone number, job title,
11 dates of employment, location of employment, and current employment status.

12 4. A list, in Excel format, of all persons employed by Defendant responsible for
13 directly supervising Senior Retail Mortgage Lending Consultants, Retail Mortgage Lending
14 Consultants, Senior Field Administrators, and/or Field Administrators during the applicable
15 statutory period, including for each his/her name, address, telephone number, job title, dates of
16 employment in that position, location managed, and current employment status.

17 5. A list, in Excel format, of all persons employed by Defendant responsible for
18 directly supervising, during the statutory period, those deemed responsible for supervising Senior
19 Retail Mortgage Lending Consultants, Retail Mortgage Lending Consultants, Senior Field
20 Administrators, and/or Field Administrators identified in Interrogatory No. 4 above, including for
21 each his/her name, address, telephone number, job title, dates of employment in that position, area
22 or region managed, and current employment status.

23 6. All documents that identify or describe Defendant's hierarchical structure, during
24 the applicable statutory period, including but not limited to its divisions or departments, the job
25 titles within the structure, and the persons holding board, officer, and management positions
26
27
28

1 within the structure.

2 7. All compensation plans and other documents relating to Defendant's policies,
3 procedures, or methods of compensating Senior Retail Mortgage Lending Consultants, Retail
4 Mortgage Lending Consultants, Senior Field Administrators, and Field Administrators during the
5 applicable statutory period.
6

7 8. All documents relating to any changes in Defendant's policies, procedures or
8 methods of paying Senior Retail Mortgage Lending Consultants, Retail Mortgage Lending
9 Consultants, Senior Field Administrators, and Field Administrators in the last six years.

10 9. All records, in Excel format, of compensation paid to Plaintiffs during the
11 applicable statutory period, per week and per pay period.
12

13 10. All documents containing, identifying or describing all communications between
14 Defendant and Plaintiffs relating to their compensation, hours of work, and overtime.

15 11. All timesheets or other documents identifying or describing the hours worked by
16 Plaintiffs during the statutory period.

17 12. All schedules or other documents identifying or describing the anticipated
18 schedules to be worked by Plaintiffs during the statutory period.

19 13. All phone logs, records, bills, or other documents identifying or describing the date
20 and time of Plaintiffs' telephone activity during the statutory period.
21

22 14. All computer logs, records, reports or other documents demonstrating the starting
23 and ending times of Plaintiffs' computer activity during each day of the statutory period.

24 15. All email or other electronic messages sent to or from Plaintiffs through
25 Defendant's email or computer systems regarding or in any way relating to their hours worked,
26 overtime, and meals and rest periods during the applicable statutory period.

27 16. All emails or other electronic messages sent to or from Plaintiffs' supervisors
28

1 through Defendant's email or computer systems during the statutory period regarding or in any
2 way relating to Senior Retail Mortgage Lending Consultants', Retail Mortgage Lending
3 Consultants', Senior Field Administrators', and/or Field Administrators' hours worked, overtime,
4 and meals and rest periods during the applicable statutory period.

5
6 17. All time-stamped documents, including closing documents, security logs, faxes, or
7 other documents that provide an identifiable time for the beginning and ending of work-related
8 activity by Plaintiffs that have not been identified and produced in connection with Interrogatories
9 Nos. 12-16.

10 18. All official, published job descriptions identifying or describing the job duties and
11 responsibilities of any non-management positions (i.e., employees who, on a day-to-day basis, are
12 not expected to spend greater than 50% of their time engaged in the management of other
13 employees) during the applicable statutory period.

14
15 19. All job postings, advertisements, or other vacancy listings identifying and
16 describing the Senior Retail Mortgage Lending Consultant, Retail Mortgage Lending Consultant,
17 Senior Field Administrator, and/or Field Administrator positions during the applicable statutory
18 period.

19 20. All orientation materials provided to Plaintiffs upon their hire.

20 21. All training materials provided to Plaintiffs during their employment.

21 22. All policy, procedure or employee rules, handbooks, or manuals in effect and
22 applicable to Plaintiffs during the statutory period.

23
24 23. All documents used generally by Senior Retail Mortgage Lending Consultants,
25 Retail Mortgage Lending Consultants, Senior Field Administrators, and Field Administrators in
26 the performance of their jobs, including any standard manuals, charts, graphs, matrixes,
27 instructions, directions, rules, policies, or procedures.

1 24. All documents that rank or otherwise compare or contrast Senior Retail Mortgage
2 Lending Consultants', Retail Mortgage Lending Consultants', Senior Field Administrators',
3 and/or Field Administrators' performance within each location, area, region or nationally.

4 25. All documents relating to Defendant's decision not to pay Senior Retail Mortgage
5 Lending Consultants, Retail Mortgage Lending Consultants, Senior Field Administrators, and/or
6 Field Administrators overtime compensation.

7 26. All documents that identify or describe all efforts taken by Defendant to comply
8 with the Fair Labor Standards Act and other state wage and hour laws relating to overtime
9 compensation.

10 27. All documents that identify, describe, or relate to any claim that Defendant's
11 method of compensating Senior Retail Mortgage Lending Consultants, Retail Mortgage Lending
12 Consultants, Senior Field Administrators, and Field Administrators was performed with a good
13 faith reasonable belief that it was complying with the Fair Labor Standards Act and other state
14 wage and hour laws relating to overtime compensation.

15 28. All documents that identify, describe or relate to any claim made by Defendant
16 that it relied on attorney advice for any claim that their method of compensating Senior Retail
17 Mortgage Lending Consultants, Retail Mortgage Lending Consultants, Senior Field
18 Administrators, and Field Administrators was performed with a good faith reasonable belief that
19 it was complying with the Fair Labor Standards Act and other state wage and hour laws relating
20 to overtime compensation.

21 29. All documents relating to oral or written complaints or inquiries by any Senior
22 Retail Mortgage Lending Consultants, Retail Mortgage Lending Consultants, Senior Field
23 Administrators, and Field Administrators regarding Defendant's methods of compensation during
24 the last ten years.

1 30. All documents relating to oral or written complaints or inquiries, lawsuits or
2 administrative filings made by any Senior Retail Mortgage Lending Consultants, Retail Mortgage
3 Lending Consultants, Senior Field Administrators, and Field Administrators regarding
4 Defendant's methods of compensation during the last ten years.

5 31. All documents relating to any contact between Defendant and the Department of
6 Labor or any other federal or state government agency regarding Defendant's compensation
7 practices during the last ten years.

8 32. All documents containing, identifying or describing all communications between
9 Defendant and any Senior Retail Mortgage Lending Consultants, Retail Mortgage Lending
10 Consultants, Senior Field Administrators, and/or Field Administrators relating to this lawsuit.

11 33. All documents that may be offered into evidence at trial or depositions or may be
12 used to refresh the recollection of a witness at depositions or trial.

13 34. All statements of witnesses or potential witnesses or persons interviewed in
14 connection with this case.

15 35. All documents relied upon or reviewed by Defendant's expert witnesses in
16 forming his/her opinions in this matter.

17 36. All documents obtained as a result of releases and/or subpoenas relating to this
18 case.

19 37. All documents not produced in response to prior Requests containing guidance
20 provided during the statutory period to Senior Retail Mortgage Lending Consultants, Retail
21 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
22 regarding the taking of meal breaks.

23 38. All documents not produced in response to prior Requests containing guidance
24 provided during the statutory period to Senior Retail Mortgage Lending Consultants, Retail
25 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
26 regarding the taking of meal breaks.

1 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
2 regarding the taking of rest periods.

3 39. All documents not produced in response to prior Requests containing guidance
4 provided during the statutory period to Senior Retail Mortgage Lending Consultants, Retail
5 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
6 regarding compensation for missed or interrupted rest periods.

7
8 40. All documents not produced in response to prior Requests containing guidance
9 provided during the statutory period to Senior Retail Mortgage Lending Consultants, Retail
10 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
11 regarding the taking of rest periods.

12 41. All documents not produced in response to prior Requests containing guidance
13 provided during the statutory period to Senior Retail Mortgage Lending Consultants, Retail
14 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
15 regarding compensation for missed rest periods.

16
17 42. All documents not produced in response to prior Requests containing guidance
18 provided during the statutory period to Senior Retail Mortgage Lending Consultants, Retail
19 Mortgage Lending Consultants, Senior Field Administrators, and/or Field Administrators
20 regarding compensation for overtime.

21
22 July 11, 2007

NICHOLS KASTER & ANDERSON, LLP

23 /s/

24 Bryan J. Schwartz, CA State Bar No. 209903
25 NICHOLS KASTER & ANDERSON, LLP
26 One Embarcadero Center
Ste. 720
San Francisco, CA 94111

27 Attorneys for Individual and Representative
28 Plaintiffs

EXHIBIT B



April 7, 2008

Michelle R. Barrett
Direct: 415.677.4089
Direct Fax: 415.743.6618
mbarrett@littler.com

VIA HAND DELIVERY AND PDF

Bryan J. Schwartz, Esq.
Nichols Kaster & Anderson, LLP
One Embarcadero Center, Suite 720
San Francisco, CA 94111

Re: **Philip Wong, et al. v. HSBC Mortgage Corp., et al.**
USDC Action No. C 07-2446 MMC
Defendant HSBC Mortgage Corporation (USA)'s Production of Document
MORT003265-4140

Defendant HSBC Mortgage Corporation (USA)'s Request for Production of
Documents to Plaintiff Wong, Set 2

Dear Bryan:

Enclosed please find additional documents (MORT003265-4140) being produced by Defendant HSBC Mortgage Corporation (USA)'s (hereinafter "HMCU") in this matter.

Please note that included as part of HMCU's document production are e-mails marked MORT003658-3660, 3710-3713, and 3736-3737. In addition, an Email Policy (MORT001587-1598) was included with the previous set of documents produced to Plaintiffs on April 1. Under the terms of the Email Policy, which applied to the individuals who were employed by HMCU and used HMCU's email systems as of February 16, 2007, company email may be monitored and any personal use of company e-mail will not be considered private. Further, please also note that per the terms of the "Electronic Monitoring Policy", which has been produced previously in this action and of which Plaintiff Wong has acknowledged receipt, reading, and understanding (see MORT000117 and 120), employees have no expectation of a right of privacy when using company e-mail.

Given Plaintiff's Wong's knowledge of the policy and acknowledgment of his understanding and agreement to abide by this policy, it is clear that Plaintiff Wong has waived the attorney-client privilege with regard to communications with you via his employer's e-mail system. Further, in reviewing Plaintiff Wong's e-mail messages, it is also clear that Plaintiff Wong has also waived the attorney-client privilege by forwarding a chain of messages between himself and you to other

Bryan J. Schwartz, Esq.
April 7, 2008
Page 2

individuals who were not represented by your firm at the time the chain of messages was sent. See MORT003658-3660, 3710-3713, and 3736-3737.

Please be advised that due to your client's waiver of the privilege, HMCU is seeking all written communications between Plaintiff Wong and your firm through the enclosed Request for Production of Documents. Further, HMCU will conduct a further search of its e-mail system to determine what other e-mail messages may have been sent by your firm to any other HMCU employees.

Very truly yours,



Michelle R. Barrett

MRB
Enclosures

Firmwide:84784878.1 023404.1043

EXHIBIT C

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IN THE UNITED STATES DISTRICT COURT

RECEIVED

NORTHERN DISTRICT OF CALIFORNIA

OCT 17 2007

PHILIP WONG, FREDERICK CHAUSSY,)

LITTLER MENDELSON

and LESLIE MARIE SHEARN,)

individually, on behalf of all) Case No. 07-2446

others similarly situated, and)

on behalf of the general public)

Plaintiffs,)

vs.)

COPY

HSBC MORTGAGE CORPORATION)

(USA),)

Defendants.)

The videographic deposition of DAVID
GATES, called for examination pursuant to the Rules
of Civil Procedure for the United States District
Courts pertaining to the taking of depositions,
taken before GINA M. LUORDO, a notary public within
and for the County of Cook and State of Illinois,
at 200 North LaSalle Street, Illinois, on the 11th
day of September, 2007, at the hour of 9:02 a.m.

Reported by: Gina M. Luordo, CSR, RPR, CRR

License No.: 084-004143

David Gates 30(b)(6) 9/11/2007

Phillip Wong, et al. v. HSBC Mortgage Corporation, et al.

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1 A. Not that I'm aware of.

2 Q. You've got to let me finish.

3 A. I'm sorry.

4 Q. Are there any -- apart from automating the
5 time cards, have there been any changes that have
6 occurred in the time-keeping system that's applied
7 to sales assistants since you've been at HSBC
8 Mortgage Corp.?

9 A. Not that I'm aware of.

10 Q. I'm going to show you a document. I don't
11 have copies of this document because it's a big
12 book, but I'm happy to show it to counsel, which is
13 a binder that says HSBC North America employee
14 handbook. And my question to you is just going to
15 be is this -- when you referenced the employee
16 handbook, is this essentially what you were
17 referring to, and are you aware of any major
18 changes in this document that occurred? I'll show
19 it to counsel first.

20 MS. BARRETT: Is there a date somewhere on
21 here?

22 MR. SCHWARTZ: There may be, presumably,
23 somewhere.

24 THE WITNESS: Who's the picture of? It will
25 tell you how old it is. Who's the picture?

David Gates 30(b)(6) 9/11/2007

Phillip Wong, et al. v. HSBC Mortgage Corporation, et al.

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1 MS. BARRETT: Bobby Mehta.

2 THE WITNESS: That might be a finance company
3 document, or it might be -- no, it's North America,
4 so no. Most of this is online now. This is --
5 most of this is online, the most current version.
6 It's within our connect EHR process, so yes. I
7 don't know the date, so -- but a lot of this data,
8 because it talks about connect in here, benefits
9 career opportunities, your business unit, this is
10 all pretty standard.

11 BY MR. SCHWARTZ:

12 Q. So that document is similar to what the --
13 employee handbook that people receive now except
14 that now a lot of that information is available
15 online?

16 A. Correct.

17 Q. And it's still -- the employee handbook is
18 still a document that's generated for all HSBC
19 North America?

20 A. Yes. It's online, though, but yes.
21 There's more detail than this because the benefits
22 and stuff like that have all been updated because
23 we change insurers all the time, and policies do
24 change, you know, just days off and stuff like
25 that.

1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)

4 I, GINA M. LUORDO, a notary public within
5 and for the County of Cook County and State of
6 Illinois, do hereby certify that heretofore,
7 to-wit, on September 11, 2007, personally appeared
8 before me, at 200 North LaSalle Street, Chicago,
9 Illinois, DAVID GATES, in a cause now pending and
10 undetermined in the United States District Court of
11 the Northern District of California, wherein PHILIP
12 WONG, et al. are the Plaintiffs, and HSBC MORTGAGE
13 CORPORATION (USA), et al. are the Defendants.

14 I further certify that the said DAVID
15 GATES was first duly sworn to testify the truth,
16 the whole truth and nothing but the truth in the
17 cause aforesaid; that the testimony then given by
18 said witness was reported stenographically by me in
19 the presence of the said witness, and afterwards
20 reduced to typewriting by Computer-Aided
21 Transcription, and the foregoing is a true and
22 correct transcript of the testimony so given by
23 said witness as aforesaid.

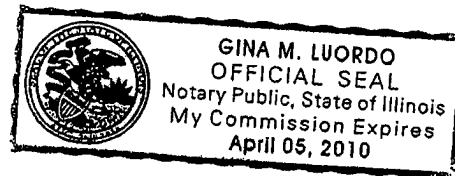
24 I further certify that the signature to
25 the foregoing deposition was not waived by counsel

1 for the respective parties.

2 I further certify that the taking of this
3 deposition was pursuant to notice and that there
4 were present at the deposition the attorneys
5 hereinbefore mentioned.

6 I further certify that I am not counsel
7 for nor in any way related to the parties to this
8 suit, nor am I in any way interested in the outcome
9 thereof.

10 IN TESTIMONY WHEREOF: I have hereunto set
11 my hand and affixed my notarial seal this 26th day
12 of September, 2007.



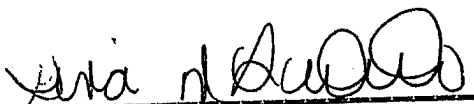
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18 NOTARY PUBLIC, COOK COUNTY, ILLINOIS
19 LIC. NO. 084-004143
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25

EXHIBIT D

1 GEORGE J. TICHY, II, Bar No. 041146
MICHELLE R. BARRETT, Bar No. 197280
2 KIMBERLY L. OWENS, Bar No. 233185
JUSTIN T. CURLEY, Bar No. 233287
3 LITTLER MENDELSON
A Professional Corporation
4 650 California Street, 20th Floor
San Francisco, CA 94108.2693
5 Telephone: 415.433.1940
Facsimile: 415.399.8490
6 E-mail: gtichy@littler.com, mbarrett@littler.com,
kowens@littler.com, jcurley@littler.com

7 Attorneys for Defendants
8 HSBC MORTGAGE CORPORATION (USA) AND
HSBC BANK USA, N.A.
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
14 others similarly situated, and on behalf of
the general public,

15 Plaintiffs,

16 v.

17 HSBC Mortgage Corporation (USA);
18 HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

19 Defendants.
20

Case No. C 07 2446 MMC [ECF]

**DEFENDANT HSBC MORTGAGE
CORPORATION (USA)'S REQUEST FOR
PRODUCTION OF DOCUMENTS TO
PLAINTIFF PHILIP WONG**

1 PROPOUNDING PARTY: Defendant HSBC MORTGAGE CORPORATION (USA)

2 RESPONDING PARTY: Plaintiff PHILIP WONG

3 SET NUMBER: One (1)

4 TO: PLAINTIFF AND HIS ATTORNEYS OF RECORD

5 Defendant HSBC MORTGAGE CORPORATION (USA) ("HMCU") hereby requests,
6 pursuant to Federal Rule of Civil Procedure 34, that you produce and permit inspection and copying
7 of the documents described below. The inspection shall be at the offices of Littler Mendelson, A
8 Professional Corporation, 650 California St., 20th Floor, San Francisco, California, 94108, within 30
9 days of service of this request and continuing as long as reasonably required.

10 DEFINITIONS

11 A. "HMCU" shall refer to Defendant HSBC Mortgage Corporation (USA).

12 B. "HBUS" shall refer to Defendant HSBC Bank USA, N.A.

13 C. "Plaintiff," "You" or "Your" refers to Plaintiff Philip Wong and/or his attorneys,
14 agents, and all persons acting under his direction or control or on his behalf.

15 D. "First Amended Complaint" shall refer to the First Amended Complaint filed in the
16 case, Philip Wong, Frederic Chaussy, and Leslie Marie Shearn v. HSBC Mortgage Corporation
17 (USA) and HSBC Bank USA, N.A., United States District Court for the Northern District of
18 California Case No. C 07 2446 MMC [ECF].

19 E. "Class Members" shall refer to the class(es) of employees defined by Plaintiff in the
20 First Amended Complaint.

21 F. "Collective Class" shall refer to the class(es) of employees defined by Plaintiff in the
22 First Amended Complaint.

23 G. Whenever it is necessary to bring within the scope of this document request
24 (hereinafter the "Request") documents that might otherwise be construed to be outside its scope:

25 1. The words "and" and "or" shall be construed both disjunctively and
26 conjunctively;

27 2. The words "any" and "all" shall be construed to mean "any and all";

28 3. The singular shall include the plural, and vice versa;

1 4. The words "include(s)" and "including" shall be construed to mean without
2 limitation"; and

3 5. Any feminine pronoun shall be deemed to include the masculine or the neuter,
4 and vice versa, as may be appropriate.

5 H. The terms "documents" and "writings" are synonymous and are defined as follows:

6 1. Each includes "writings" as defined in Federal Rules of Evidence 1001;

7 2. Each includes all written or graphic matter, however produced or reproduced,
8 of any nature whatsoever within the possession, custody or control of Plaintiff, including, but not
9 limited to, all written, typed, printed, microfilmed, and photostatic matter, copies of all kinds,
10 regardless of origin, including all correspondence, contracts, agreements, memoranda, reports,
11 financial reports and statements, checks, notes, letters, trade letters, marginal notations, telegrams,
12 messages (including tape recordings, reports from telephone conversations and conferences),
13 calendars, electronic mail, analyses, comparisons, demands, data, schedules, recordings, papers, data
14 sheets, publications, books, magazines, newspapers, booklets, circulars, brochures, bulletins, notices,
15 instructions, drafts, notebooks, diaries, sketches, diagrams, forms, manuals, lists, minutes, and other
16 communications including inter-office and intra-office communications, surveys, photographs,
17 drawings, charts, notes of meetings, conversations, records of conversations, records, work papers,
18 balance sheets, profit and loss statements, statements of earnings, checks, statements of net worth,
19 statements of operation, auditor reports, financial reports and summaries, statements of lists of
20 assets, agreements, contracts, expense records, opinions, legal opinions, expert opinions, accounts
21 payable ledgers, accounts receivable ledgers, appraisals, audit work papers, minutes of meetings,
22 consultations, performance evaluations, warnings, disciplinary actions, recorded or photographic
23 matter or sound reproductions, including video and audio tapes, however produced or reproduced,
24 and any other such materials, whether executed or unexecuted, and any municipal, county, state,
25 federal or other governmental ordinances, laws, or statutes.

26 I. The term "possession, custody or control" is defined as follows: A document is
27 deemed to be in Plaintiff's possession, custody or control if it is in his physical custody, or if it is in
28 the physical custody of any other person and he: (a) owns such document in whole or in part; (b) has

1 a right by contract, statute or otherwise to use, inspect, examine or copy such document on any
 2 terms; (c) has an understanding, express or implied, that he may use, inspect, examine or copy such
 3 document on any terms; or (d) has, as a practical matter, been able to use, inspect, examine or copy
 4 such document when he has sought to do so. Such documents shall include without limitation
 5 documents that are in the custody of Plaintiff's attorney(s) or other agents.

6 INSTRUCTIONS

7 A. This demand requires that you identify and produce all writings responsive to any of
 8 the following numbered requests which are in your possession, custody or control or subject to your
 9 control, wherever they may be located. The writings which you must identify and produce include
 10 not only writings which you presently possess, but also writings which are in the possession or
 11 control of your attorneys, accountants, bookkeepers, employees, representatives, or anyone else
 12 acting on your behalf.

13 B. You are requested to produce all writings which are responsive to any of the
 14 following numbered demands for inspection and photocopying at the law offices of Littler
 15 Mendelson, 650 California Street, 20th Floor, San Francisco, California 94108 at 10:00 a.m. on or
 16 before the thirtieth day following the date of service of this demand (or the next business day if that
 17 day falls on a Saturday, Sunday or court holiday), unless true, legible copies of said documents are
 18 mailed for receipt at that law office by the time stated, together with a signed statement indicating
 19 that the original of the documents may be inspected by counsel for HMCU upon reasonable request.

20 C. In addition to producing all writings which are responsive to any of the following
 21 numbered demands, you are also requested to identify with specificity each writing which is
 22 responsive to any of the following numbered demands and indicate which writings are responsive to
 23 each numbered demand.

24 D. All documents which are responsive in whole or in part to any of the following
 25 numbered demands shall be produced in full, without abridgment, abbreviation or expurgation of
 26 any sort. If any such writings cannot be produced in full, produce the writing to the greatest extent
 27 possible and indicate in your written response what portion of the document is not produced and why
 28 it could not be produced.

1 E. You are required to produce not only the original or an exact copy of the original of
 2 all writings responsive to any of the following numbered demands, but also all copies of such
 3 writings which bear any notes or markings not found on the originals and all preliminary,
 4 intermediate, final and revised drafts of said writings.

5 F. It is not intended that this demand require production of any writings which are
 6 privileged. If you are not producing any writing responsive to any of the numbered demands below
 7 on the basis of a claimed privilege, or for any other reason, state the following information:

- 8 1. the type of document;
- 9 2. its date;
- 10 3. the name, business address and present position of its originator(s) or
 11 author(s);
- 12 4. the position to its originator(s) or author(s) at the time the document was
 13 prepared;
- 14 5. the names, business addresses and present position of each recipient of the
 15 document;
- 16 6. the position of each recipient at the time the document was prepared, and the
 17 time it was received;
- 18 7. a general description of the subject matter of the document;
- 19 8. the basis of any claim of privilege; and
- 20 9. if work-product immunity is asserted, the proceeding for which the document
 21 was prepared.

22 G. Unless otherwise specified, these Requests for Production of Documents require you
 23 to provide a response and produce documents covering the entire period of your employment by
 24 HMCU, including from the date of your hire through the date that you are required to provide
 25 responses to these Requests for Production of Documents and continuing so as to require further and
 26 supplemental production by Plaintiff.

27 //

28 //

REQUESTS FOR PRODUCTION**REQUEST FOR PRODUCTION NO. 1:**

All documents which relate to, refer to, show, or reflect communications, oral or written, including, without limitation, policies, procedures, handbooks, memoranda, grievances, applications, postings, complaints, wage information, benefits information and work schedules, between Plaintiff and HMCU, regarding the subject matter of the First Amended Complaint.

REQUEST FOR PRODUCTION NO. 2:

All documents and things acquired or received by Plaintiff by virtue of Plaintiff's employment with HMCU including, without limitation, all books, records, files, or data downloaded by Plaintiff from any desktop, personal, portable, or mainframe computer and any abstracts, copies, or summaries thereof.

REQUEST FOR PRODUCTION NO. 3:

All documents and things created by Plaintiff in connection with Plaintiff's employment with HMCU, including but without limitation any memoranda, charts, reports, summaries, spreadsheets, electronic mail messages, or other documents created by Plaintiff to be used to present information to prospective clients or customers or existing clients or customers.

REQUEST FOR PRODUCTION NO. 4:

All documents and things Plaintiff has removed from HMCU's premises.

REQUEST FOR PRODUCTION NO. 5:

Any and all documents that relate to, refer to, show, or reflect the hours Plaintiff has worked each and every day during his employment with HMCU.

REQUEST FOR PRODUCTION NO. 6:

All documents that relate to, refer to, show, or reflect the days Plaintiff has worked during his employment with HMCU, including, but without limitation, any and all documents that describe the exact hours of work for each such day, any time taken for breakfasts, lunches, dinners, smoking, attending to personal issues or tasks that are not or were not work related, meal periods, break periods or rest periods.

//

REQUEST FOR PRODUCTION NO. 7:

All documents that relate to, refer to, show, or reflect the weeks of the year(s) Plaintiff has worked during his employment with HMCU, including, but without limitation, any and all documents that describe the exact hours of work for each such week, any time taken for breakfasts, lunches, dinners, smoking, attending to personal issues or tasks that are not or were not work related, meal periods, break periods or rest periods.

REQUEST FOR PRODUCTION NO. 8:

All documents that relate to, refer to, show, or reflect the months of the year(s) Plaintiff has worked during his employment with HMCU, including, but without limitation, any and all documents that describe the exact hours of work for each such month, any time taken for breakfasts, lunches, dinners, smoking, attending to personal issues or tasks that are not or were not work related, meal periods, break periods or rest periods.

REQUEST FOR PRODUCTION NO. 9:

Any and all documents reflecting Plaintiff's work assignments and/or assigned duties during his employment with HMCU.

REQUEST FOR PRODUCTION NO. 10:

All documents that relate to, refer to, show, or reflect job duties actually performed by Plaintiff while employed by HMCU.

REQUEST FOR PRODUCTION NO. 11:

All electronic mail sent by Plaintiff, including, but without limitation, electronic mail sent from any personal electronic mail accounts, between the hours of 6:00 a.m. to 8:00 p.m., Monday through Friday, at any time during Plaintiff's employment with HMCU.

REQUEST FOR PRODUCTION NO. 12:

All electronic mail sent by Plaintiff, including, but without limitation, electronic mail sent from any personal electronic mail accounts, between the hours of 9:00 a.m. to 4:00 p.m. on Saturdays at any time during Plaintiff's employment with HMCU.

REQUEST FOR PRODUCTION NO. 13:

All documents that relate to, refer to, show, or reflect Plaintiff's communications with

international based clients at any time during Plaintiff's employment with HMCU.

REQUEST FOR PRODUCTION NO. 14:

All documents that relate to, refer to, show, or reflect an evaluation of Plaintiff's job performance while employed by HMCU.

REQUEST FOR PRODUCTION NO. 15:

All documents that relate to, refer to, show, or reflect policies and/or procedures related the position(s) Plaintiff holds or held while employed by HMCU.

REQUEST FOR PRODUCTION NO. 16:

All documents that relate to, refer to, show or reflect training for the position(s) Plaintiff holds or held while employed by HMCU.

REQUEST FOR PRODUCTION NO. 17:

All documents, including but not limited to pay records, pay checks, pay stubs, IRS W-2 forms, memos, letters, and/or tax returns, that relate to, refer to, show, or reflect the wages, including commissions, promised, earned or paid to Plaintiff while employed by HMCU.

REQUEST FOR PRODUCTION NO. 18:

All documents, including but not limited to pay records, pay checks, pay stubs, IRS W-2 forms, memos, letters, and/or tax returns, that relate to, refer to, show, or reflect the benefits promised, earned or paid to Plaintiff while employed by HMCU.

REQUEST FOR PRODUCTION NO. 19:

All documents that relate to, refer to, show, or reflect any bonus programs or other incentive compensation for which Plaintiff is or was eligible while employed by HMCU.

REQUEST FOR PRODUCTION NO. 20:

All documents that relate to, refer to, show, or reflect any absences from work due to sick days, personal days, doctor's appointments, leaves of absence, or for any other reason requested and/or taken by Plaintiff while employed by the HMCU.

REQUEST FOR PRODUCTION NO. 21:

All documents that relate to, refer to, show, or reflect any vacations requested and/or taken by Plaintiff while employed by HMCU including, without limitation, calendar entries, receipts,

1 credit card bills, airline ticket stubs, itineraries, etc.

2 **REQUEST FOR PRODUCTION NO. 22:**

3 All documents that relate to, refer to, show or reflect any earned income by Plaintiff from
4 HMCU, including, but without limitation, pay records, pay checks, pay stubs, IRS W-2 forms,
5 memos, and letters received at any time during Plaintiff's employment with HMCU.

6 **REQUEST FOR PRODUCTION NO. 23:**

7 All documents that relate to, refer to, show, or reflect all alleged deductions made by HMCU
8 from Plaintiff's wages, commissions or incentives.

9 **REQUEST FOR PRODUCTION NO. 24:**

10 All documents, including, and without limitation, credit card receipts, cash receipts, credit
11 card bills, and cellular telephone bills, that relate to, refer to, show, or reflect all expenses Plaintiff
12 claims to have incurred in performing his duties while employed by HMCU.

13 **REQUEST FOR PRODUCTION NO. 25:**

14 All documents, including, and without limitation, cellular telephone bills, cellular telephone
15 records, personal digital assistant bills, and personal digital assistant records, that relate to, refer to,
16 show, or reflect all telephone calls made and received, all text, SMS, or PIN messages sent or
17 received, all pages sent or received, and any and all other communications sent or received from or
18 by the cellular telephone number(s) Plaintiff uses or has used to perform work for HMCU.

19 **REQUEST FOR PRODUCTION NO. 26:**

20 All documents, including, and without limitation, telephone bills and telephone records, that
21 relate to, refer to, show, or reflect all telephone calls made and received, all text, SMS, or PIN
22 messages sent or received, all pages sent or received, and any and all other communications sent or
23 received from or by any personal or home telephone number(s) Plaintiff uses or has used to perform
24 work for HMCU.

25 **REQUEST FOR PRODUCTION NO. 27:**

26 All documents, including, and without limitation, cellular telephone bills, cellular telephone
27 records, personal digital assistant bills, and personal digital assistant records, that relate to, refer to,
28 show, or reflect all telephone calls made and received, all text, SMS, or PIN messages sent or

received, all pages sent or received, and any and all other communications sent or received from or by any personal digital assistant device Plaintiff uses or has used to perform work for HMCU.

REQUEST FOR PRODUCTION NO. 28:

All documents, including, and without limitation, pager bills and pager records, that relate to, refer to, show, or reflect all pages sent and received and any and all other communications sent or received from or by any pager Plaintiff uses or has used to perform work for HMCU.

REQUEST FOR PRODUCTION NO. 29:

All calendars, calendar entries, diaries, day-timers, day planners, time records, notes, memoranda, training schedules, work schedules or similar documents covering the period of Plaintiff's employment with HMCU to present, which in any manner relate to Plaintiff's hours of work, working assignments, rate of pay, wages, compensation, commissions and/or other working conditions while employed by HMCU.

REQUEST FOR PRODUCTION NO. 30:

All documents reflecting communications or correspondence that Plaintiff and/or his counsel has had with former and/or current employees of HMCU that relate or refer to the claims alleged in the First Amended Complaint.

REQUEST FOR PRODUCTION NO. 31:

All documents reflecting communications or correspondence that Plaintiff and/or his counsel has had with any individual that relate or refer to the claims alleged in the First Amended Complaint.

REQUEST FOR PRODUCTION NO. 32:

All documents that relate to, refer to or show any written or recorded statements obtained or received by Plaintiff and/or his counsel from any of HMCU's former and/or current employees concerning the subject matter of this lawsuit.

REQUEST FOR PRODUCTION NO. 33:

All documents that relate to, refer to or show any written or recorded statements obtained or received by Plaintiff and/or his counsel from any individual concerning the subject matter of this lawsuit.

REQUEST FOR PRODUCTION NO. 34:

All documents that refer to, support, or reflect your typical daily tasks for each position you hold or held while employed with HMCU.

REQUEST FOR PRODUCTION NO. 35:

All documents that refer to, support, or reflect your typical weekly tasks for each position you hold or held while employed with HMCU.

REQUEST FOR PRODUCTION NO. 36:

All documents which in any manner relate or refer to each and every instance for which you claim that you did not receive appropriate compensation, including but not limited to overtime, penalties, fines, and premium pay, from HMCU in violation of any state or federal law, including but not limited to the Fair Labor Standards Act.

REQUEST FOR PRODUCTION NO. 37:

All documents which in any manner relate to or refer to itemized wage statements provided to you by HMCU, including but not limited to pay records, pay checks, and pay stubs.

REQUEST FOR PRODUCTION NO. 38:

All documents that in any manner refer to, relate to, tend to prove or disprove your contention that the "loan officers" described in the First Amended Complaint were misclassified as exempt.

REQUEST FOR PRODUCTION NO. 39:

All documents that in any manner refer to, relate to, tend to prove or disprove your contention that the "loan officers" described in the First Amended Complaint were denied or not fully paid overtime compensation.

REQUEST FOR PRODUCTION NO. 40:

All documents that in any manner refer to, relate to, tend to prove or disprove your contention that the "loan officers" described in the First Amended Complaint were denied or prevented from taking meal and rest periods.

REQUEST FOR PRODUCTION NO. 41:

All documents that in any manner refer to, relate to, tend to prove or disprove your

1 contention that the "loan officers" described in the First Amended Complaint were not provided
2 appropriate waiting time penalties pursuant to the California Labor Code.

3 **REQUEST FOR PRODUCTION NO. 42:**

4 All documents that in any manner refer to, relate to, tend to prove or disprove your
5 contention that the "loan officers" described in the First Amended Complaint were not provided with
6 properly itemized wage statements pursuant to the California Labor Code.

7 **REQUEST FOR PRODUCTION NO. 43:**

8 All documents that in any manner refer to, relate to, tend to prove or disprove your
9 contention that the "sales assistants" described in the First Amended Complaint were not paid fully
10 for overtime hours worked.

11 **REQUEST FOR PRODUCTION NO. 44:**

12 All documents that in any manner refer to, relate to, tend to prove or disprove your
13 contention that the "sales assistants" described in the First Amended Complaint were denied or
14 prevented from taking meal and rest periods.

15 **REQUEST FOR PRODUCTION NO. 45:**

16 All documents that in any manner refer to, relate to, tend to prove or disprove your
17 contention that the "sales assistants" described in the First Amended Complaint were not provided
18 appropriate waiting time penalties pursuant to the California Labor Code.

19 **REQUEST FOR PRODUCTION NO. 46:**

20 All documents that in any manner refer to, relate to, tend to prove or disprove your contention that
21 the "sales assistants" described in the First Amended Complaint were not provided with properly
22 itemized wage statements pursuant to the California Labor Code.

23 **REQUEST FOR PRODUCTION NO. 47:**

24 All documents that in any manner refer to, relate to, tend to prove or disprove your
25 contention that the "other non-management sales employees" described in the First Amended
26 Complaint were misclassified as exempt.

27 **REQUEST FOR PRODUCTION NO. 48:**

28 All documents that in any manner refer to, relate to, tend to prove or disprove your

1 contention that the "other non-management sales employees" described in the First Amended
 2 Complaint were denied or not fully paid overtime compensation.

3 **REQUEST FOR PRODUCTION NO. 49:**

4 All documents that in any manner refer to, relate to, tend to prove or disprove your
 5 contention that the "other non-management sales employees" described in the First Amended
 6 Complaint were denied or prevented from taking meal and rest periods.

7 **REQUEST FOR PRODUCTION NO. 50:**

8 All documents that in any manner refer to, relate to, tend to prove or disprove your
 9 contention that the "other non-management sales employees" described in the First Amended
 10 Complaint were not provided appropriate waiting time penalties pursuant to the California Labor
 11 Code.

12 **REQUEST FOR PRODUCTION NO. 51:**

13 All documents that in any manner refer to, relate to, tend to prove or disprove your
 14 contention that the "other non-management sales employees" described in the First Amended
 15 Complaint were not provided with properly itemized wage statements pursuant to the California
 16 Labor Code.

17 **REQUEST FOR PRODUCTION NO. 52:**

18 All documents that in any manner refer to, relate to, tend to prove or disprove your
 19 contention that HMCU suffered and permitted Plaintiffs, Class Members and/or the Collective Class
 20 to work more than forty hours per week without overtime compensation.

21 **REQUEST FOR PRODUCTION NO. 53:**

22 All documents that in any manner refer to, relate to, tend to prove or disprove your
 23 contention that HMCU has engaged in conduct that is or was willful and in bad faith, causing
 24 significant damages to Plaintiff, Class Members and/or the Collective Class.

25 **REQUEST FOR PRODUCTION NO. 54:**

26 All documents that in any manner refer to, relate to, tend to prove or disprove your
 27 contention that HMCU has failed to provide Plaintiff and/or Class Members with meal periods as
 28 required by law.

REQUEST FOR PRODUCTION NO. 55:

All documents that in any manner refer to, relate to, tend to prove or disprove your contention that HMCU failed to authorize and permit Plaintiff and/or Class Members to take rest periods as required by law.

Dated: January 31, 2008

Respectfully submitted,



MICHELLE R. BARRETT
GEORGE J. TICHY II
KIMBERLY L. OWENS
JUSTIN T. CURLEY
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendants
HSBC MORTGAGE CORPORATION (USA)
and HSBC BANK USA, N.A.

Firmwide:84197345.1 023404.1043

EXHIBIT E

the **Voice** for employees

Nichols Kaster & Anderson, LLP

COPY
LITTLER MENDELSON
FEB 29 2008
RECEIVED

February 29, 2008

VIA HAND-DELIVERY

George J. Tichy II
Michelle Barrett
Littler Mendelson, P.C.
650 California Street
20th Floor
San Francisco, CA 94108-2693

Re: Wong et al v. HSBC et al
Our File # 10609-01
Court File #07-2446

Dear Ms. Barrett:

Enclosed herewith and served upon you please find Plaintiff Phillip Wong's and Plaintiff Frederic Chaussy's Responses to Defendant HSBC Mortgage Corporation (USA)'s Request For Production of Documents, Set I. An index of documents included in the enclosed CD are listed below:

Phillip Wong

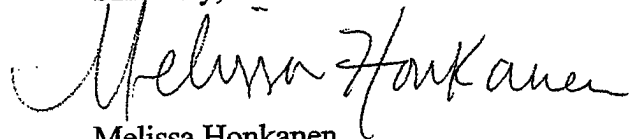
NKA1364-1410:	View Paycheck and Compensation History
NKA1441:	The Law of The Ladder PowerPoint (18 slides)
NKA1454- 1461:	Clean Desktop and Workspace Security
NKA1462-1474 :	2007 Loan Officer Business Plan
NKA1475-1477:	Emails with Managers Amy Ku and Jeff Needham
NKA1478-1495:	P. Wong's Paychecks
NKA1497-1500:	Summer Mortgage Campaign - Quick Reference Guide
NKA1534:	A. Ku Email Re Attendance and Punctuality
NKA2105-2121:	The Law of The Encore
NKA2122-2131:	The High Trust Sales Academy
NKA2366-2373:	Mortgage Sales Contact List
NKA2374:	Structure of HSBC Holdings
NKA2383:	P. Wong's Commission Calculation
NKA2503-2540:	Emails with Managers Amy Ku and Jeff Needham
NKA2541-2585:	P. Wong's Paychecks
NKA2586-2628:	Wong's Expense Reports, Reimbursement Reports, Cell Phone Bills
NKA2629-2641:	Time Off Policy, Absent Policy
NKA2642-3156:	Emails with clients and co-workers regarding loans

Frederic Chaussy

NKA1501:	Weekly Production by Offices
NKA2104:	F. Chaussy's W-2 for 2006
NKA2258-2259:	Interim Job Discussion
NKA2260-2269:	Status Report by Loan Officer
NKA2270-2275:	Retaliation Complaint
NKA2276-2277:	Termination Letter
NKA2278-2279:	Key Accountabilities
NKA2280-2298:	Compensation History
NKA2299-2300:	Inside HR – Overtime
NKA2301-2305:	Correspondence with HSBC
NKA2306-2307:	Employment Offer
NKA2308-2322:	Mortgage Sales Incentive Plans for Retail Sales
NKA2323-2327:	Final Written Warning-Production/Performance and Emails
NKA2328-2329:	Emails Concerning Compensation
NKA2330:	Emails with A. Ku
NKA2331-2334:	Emails with W. Daniel
NKA2334-2341:	Documents Relating to California Labor Commission Claim
NKA2342-2356:	Emails with A. Ku and J. Jennings
NKA2357-2360:	Branch Schedule Documents
NKA2361-2365:	Emails with A. Ku and W. Daniel
NKA2379-2382:	Paychecks and 2007 W-2
NKA2386-2446:	F. Chaussy Paychecks
NKA2447-2464:	Severance Pay Plan, Emails
NKA2465-2502:	Emails, Branch Schedule

Thank you for your time and attention to this matter.

Sincerely,



Melissa Honkanen
Legal Assistant

Enclosures

EXHIBIT F

**THIS EXHIBIT IS FILED WITH DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF TO FILE UNDER SEAL EXHIBITS IN SUPPORT
OF DEFENDANTS' MOTION FOR RULE 11(C) SANCTIONS**

EXHIBIT G

**THIS EXHIBIT IS FILED WITH DEFENDANTS' MOTION FOR
ADMINISTRATIVE RELIEF TO FILE UNDER SEAL EXHIBITS IN SUPPORT
OF DEFENDANTS' MOTION FOR RULE 11(C) SANCTIONS**

EXHIBIT H

CERTIFIED COPY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILIP WONG, FREDERIC CHAUSSY,
And LESLIE MARIE SHEARN,
Individually, on behalf of all
Others similarly situated, and
On behalf of the general public,
Plaintiffs,

NO. 3:07-CV-2446 MMC

vs.

HSBC MORTGAGE CORPORATION (USA)
HSBC BANK, USA, N.A.; and
DOES 1 through 50, inclusive,
Defendants.

DEPOSITION OF PHILIP WONG

SAN FRANCISCO, CALIFORNIA

NOVEMBER 29, 2007

Reported by Yvonne Fennelly, CSR No. 5495

P
A
U
L
S
O
N

183

1 Q. Are you saying that the time that you are at a
2 location is reflected by when you log onto your e-mail
3 account; is that right?

4 A. Yes.

5 Q. Okay.

6 Do you know if any other loan officers or
7 mortgage consultants track their time?

8 A. That I'm unaware of.

9 Q. Do you schedule appointments in advance?

10 A. To the branch?

11 Q. At any location.

12 A. I schedule appointments according to the
13 branch.

14 Q. What do you mean by that?

15 A. The personal banker would refer to a client,
16 speak to them about the mortgage product before setting
17 up an appointment with me.

18 Q. So are you saying that you would or you would
19 not schedule an appointment or did the person just
20 basically walk in?

21 A. At times the person just basically walks in.

22 Q. Are there occasions when you actually schedule
23 appointments?

24 A. Yes.

25 Q. How frequently does that occur?

P A U L S O N

REPORTING & LITIGATION SERVICES
WWW.DAILYCONREPORTING.COM

800 300 1214

415 591 3333

184

1 A. On a daily basis.

2 Q. On a daily basis, okay.

3 Why don't you describe your typical workday for
4 us as it exists today.

5 A. Well, do you want me to explain to you how I
6 start my whole day?

7 Q. Sure.

8 I'm not interested in your personal activities
9 as they relate to what you may do personally other than
10 with regard to your job, but why don't you describe your
11 workday for us.

12 A. I would wake up at 5:00 a.m. to talk to a
13 processor in New York, Buffalo, in reference to our loan
14 files.

15 From that point on, we would go by e-mails back
16 and forth until about 8:00 o'clock.

17 8:30 I'd walk into my banking center.

18 From 8:30 on we talk to clients as long as --
19 as well as talk to branch employees, to walk-in traffic
20 as well, alongside with anybody making a payment.

21 We would stay there until, or I would stay
22 there until all the branch employees leave, and that
23 varies from day-to-day from 5:30 on to 7:30 at times.

24 Soon after I would go home, work from my home
25 office from -- it varies from the time of 7:00 o'clock

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1 all the way till 1:30.

2 Q. So are you saying that on a regular basis
3 you're getting three-and-a-half hours sleep?

4 A. At times, yes.

5 Q. Well, I'm asking on a regular basis.

6 A. I would say not on a regular basis.

7 Q. And when you were working with the processors
8 in New York, that would be during a period when you
9 actually had an application pending; is that right?

10 A. Yes.

11 Q. And what sort of discussions would you have
12 with the processors in New York?

13 A. Documentation that we require from overseas.

14 Q. Would you talk with them over the phone or
15 would this be by e-mail?

16 A. Both.

17 Q. And so you would discuss with the processor in
18 New York what additional documentation was necessary?

19 A. Yes.

20 Q. Okay.

21 Anything else that you would discuss with the
22 processor?

23 A. Timeframe.

24 Q. Timeframe.

25 Anything else?

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REPORTER'S CERTIFICATION

You, Yvonne Fennelly, Certified Shorthand Reporter, in and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

IN WITNESS WHEREOF, you have subscribed my name this 14th day of December, 2007.

/s/ Yvonne Fennelly
Yvonne Fennelly, CRP, CSR No. 5495

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DEPOSITION ERRATA SHEET

RE: Paulson Reporting & Litigation Services

File No. 9738

Case Caption: PHILIP WONG, et al.

vs. HSBC MORTGAGE CORPORATION, et al.

Deponent: PHILIP WONG

Deposition Date: NOVEMBER 29, 2007

To the Reporter:

I have read the entire transcript of my Deposition taken
in the captioned matter or the same has been read to me.

I request that the following changes be entered upon the
record for the reasons indicated. I have signed my name to
the Errata Sheet and the appropriate Certificate and
authorize you to attach both to the original transcript.

Page No. _____ Line No. _____ Change to: _____

Reason for change: _____

Page No. _____ Line No. _____ Change to: _____

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